

ESTTA Tracking number: **ESTTA750419**

Filing date: **06/06/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91220510
Party	Plaintiff EIR NYC LLC
Correspondence Address	LUKE W DEMARTE MICHAEL BEST & FRIEDRICH LLP 180 N STETSON, SUITE 2000 CHICAGO, IL 60601 UNITED STATES lwdemarte@michaelbest.com
Submission	Other Motions/Papers
Filer's Name	Luke W. DeMarte
Filer's e-mail	lwdemarte@michaelbest.com
Signature	/luke w demarte/
Date	06/06/2016
Attachments	19169330_Motion_for_Entry_of_Judgment_-_Opp_of_SURF_MUD.PDF(70809 3 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

EIR NYC LLC,

Opposer,

v.

Jason Coleman and Jason Anfield,

Applicants.

Opposition No. 91220510

Serial No.: 86/335393

Mark: SURF MUD

MOTION FOR ENTRY OF JUDGMENT AGAINST APPLICANTS

The application which is the subject of this opposition, Serial No. 86/335393, was abandoned after the entry of a decision of the Trademark Trial and Appeal Board in a separate proceeding. A copy of the Board's decision refusing Applicants' registration is attached as Exhibit A. Records from the TESS and TSDR databases showing the status of the subject application as "DEAD" are attached as Exhibit B.

Accordingly, Opposer requests entry of judgment against Applicants and in favor of Opposer.

Date: June 6, 2016

EIR NYC LLC

By: /s/Luke W. DeMarte

One of its attorneys

Luke W. DeMarte
Jeffrey H. Brown
Michael Best & Friedrich LLP
Two Prudential Plaza
180 N. Stetson Avenue, Suite 2000
Chicago, Illinois 60601
(312) 222-0800

EXHIBIT A

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

kk

Mailed: May 26, 2016

Opposition No. 91222726

Make-up Designory

v.

Jason Anfield and Jason Coleman

By the Trademark Trial and Appeal Board:

On April 11, 2016, the Board issued an order to show cause in view of Applicant's apparent loss of interest in this proceeding.

Inasmuch as no response to the Board's order has been filed, judgment is hereby entered against Applicant. The opposition is accordingly sustained and registration to Applicant is refused.



United States Patent and Trademark Office

[Home](#) | [Site Index](#) | [Search](#) | [FAQ](#) | [Glossary](#) | [Guides](#) | [Contacts](#) | [eBusiness](#) | [eBiz alerts](#) | [News](#) | [Help](#)
[Trademarks](#) > **Trademark Electronic Search System (TESS)**

TESS was last updated on Mon Jun 6 03:21:03 EDT 2016

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [BOTTOM](#) | [HELP](#)
 Please logout when you are done to release system resources allocated for you.

Record 1 out of 1

[TSDR](#) | [ASSIGN Status](#) | [TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

SURF MUD

Word Mark	SURF MUD
Goods and Services	(ABANDONED) IC 003. US 001 004 006 050 051 052. G & S: Concealers for skin, face and body; Cosmetic preparations for protecting the skin from the sun's rays; Cosmetic sun-protecting preparations; Cosmetic sunscreen preparations; Waterproof sunscreen
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	86335393
Filing Date	July 12, 2014
Current Basis	1B
Original Filing Basis	1B
Published for Opposition	January 13, 2015
Owner	(APPLICANT) COLEMAN Jason INDIVIDUAL AUSTRALIA PO Box 71 Cotton Tree QLD 4558 AUSTRALIA (APPLICANT) ANFIELD Jason INDIVIDUAL AUSTRALIA PO Box 655 Bulimba, QLD 4171 AUSTRALIA
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "MUD" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	May 26, 2016

[TESS HOME](#) | [NEW USER](#) | [STRUCTURED](#) | [FREE FORM](#) | [BROWSE DICT](#) | [SEARCH OG](#) | [TOP](#) | [HELP](#)
[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [eBUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

EXHIBIT B

Generated on: This page was generated by TSDR on 2016-06-06 12:15:51 EDT

Mark: SURF MUD

SURF MUD

US Serial Number: 86335393

Application Filing Date: Jul. 12, 2014

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Abandoned after an inter partes decision by the Trademark Trial and Appeal Board. For further information, see TTABVue on the Trademark Trial and Appeal Board web page.

Status Date: May 26, 2016

Publication Date: Jan. 13, 2015

Date Abandoned: May 26, 2016

Mark Information

Mark Literal Elements: SURF MUD

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "MUD"

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Concealers for skin, face and body; Cosmetic preparations for protecting the skin from the sun's rays; Cosmetic sun-protecting preparations; Cosmetic sunscreen preparations; Waterproof sunscreen

International Class(es): 003 - Primary Class

U.S Class(es): 001, 004, 006, 050, 051, 052

Class Status: ABANDONED

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Amended Use: No

Filed ITU: Yes

Currently ITU: Yes

Amended ITU: No

Filed 44D: No

Currently 44D: No

Amended 44D: No

Filed 44E: No

Currently 44E: No

Amended 44E: No

Filed 66A: No

Currently 66A: No

Filed No Basis: No

Currently No Basis: No

Current Owner(s) Information

Owner Name: ANFIELD Jason

Owner Address: PO Box 655
Bulimba, QLD 4171
AUSTRALIA

EXHIBIT B

Legal Entity Type: INDIVIDUAL

Citizenship: AUSTRALIA

Owner Name: COLEMAN Jason

Owner Address: PO Box 71
Cotton Tree QLD 4558
AUSTRALIA

Legal Entity Type: INDIVIDUAL

Citizenship: AUSTRALIA

Attorney/Correspondence Information

Attorney of Record - None

Correspondent

Correspondent Name/Address: JASON COLEMAN
PO BOX 71
COTTON TREE QLD 4558
AUSTRALIA

Phone: +61 422 665 997

Fax: +61 7 3177 1018

Correspondent e-mail: jason@bpi.edu.au

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
May 27, 2016	ABANDONMENT NOTICE MAILED - INTER PARTES DECISION	
May 26, 2016	ABANDONMENT - AFTER INTER PARTES DECISION	
May 26, 2016	OPPOSITION TERMINATED NO. 999999	222726
May 26, 2016	OPPOSITION SUSTAINED NO. 999999	222726
Jul. 08, 2015	OPPOSITION INSTITUTED NO. 999999	222726
Feb. 05, 2015	OPPOSITION INSTITUTED NO. 999999	220510
Feb. 04, 2015	OPPOSITION PAPERS RECEIVED AT TTAB	
Jan. 13, 2015	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Jan. 13, 2015	PUBLISHED FOR OPPOSITION	
Dec. 24, 2014	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Dec. 06, 2014	LAW OFFICE PUBLICATION REVIEW COMPLETED	68552
Dec. 05, 2014	ASSIGNED TO LIE	68552
Nov. 19, 2014	APPROVED FOR PUB - PRINCIPAL REGISTER	
Nov. 19, 2014	TEAS/EMAIL CORRESPONDENCE ENTERED	88889
Nov. 18, 2014	CORRESPONDENCE RECEIVED IN LAW OFFICE	88889
Nov. 18, 2014	TEAS RESPONSE TO OFFICE ACTION RECEIVED	
Oct. 23, 2014	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Oct. 23, 2014	NON-FINAL ACTION E-MAILED	6325
Oct. 23, 2014	NON-FINAL ACTION WRITTEN	78475
Oct. 23, 2014	ASSIGNED TO EXAMINER	78475
Jul. 17, 2014	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jul. 16, 2014	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: LAW, CHRISTOPHER M

Law Office: LAW OFFICE 105
Assigned:

File Location

Current Location: TTAB

Date in Location: May 26, 2016

Proceedings

Summary

EXHIBIT B

Number of 3
Proceedings:

Type of Proceeding: Opposition

Proceeding Number: [91222726](#)

Filing Date: Jul 08, 2015

Status: Terminated

Status Date: May 26, 2016

Interlocutory Attorney: ANN LINNEHAN VOGLER

Defendant

Name: Jason Anfield and Jason Coleman

Correspondent JASON COLEMAN

Address: PO BOX 71
COTTON TREE QLD , 4558
AUSTRALIA

Correspondent e-mail: jason@bpi.edu.au , worldpro@optusnet.com.au , info@surfud.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SURF MUD	Abandoned - After Inter-Partes Decision	86335393	

Plaintiff(s)

Name: Make-up Designory

Correspondent MICHELLE HON DONOVAN

Address: DUANE MORRIS LLP
750 B STREET, SUITE 2900
SAN DIEGO CA , 92101
UNITED STATES

Correspondent e-mail: mhdonovan@duanemorris.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
MUD MAKE-UP DESIGNORY	Registered	85555452	4217710
MAKE-UP DESIGNORY MUD	Renewed	78172331	2908190
MUD MAKE-UP DESIGNORY	Section 8 and 15 - Accepted and Acknowledged	77387791	3582440
MUD	Registered	77204112	3823499
MAKE-UP DESIGNORY MUD	Section 8 and 15 - Accepted and Acknowledged	77204209	3487203
MUDSHOP	Section 8 and 15 - Accepted and Acknowledged	77204044	3487200

Prosecution History

Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Jul 08, 2015	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Jul 08, 2015	Aug 17, 2015
3	PENDING, INSTITUTED	Jul 08, 2015	
4	P MOT TO SUSP W/ CONSENT PEND SETTLE NEGOTIATIONS	Jul 15, 2015	
5	SUSPENDED	Jul 16, 2015	
6	NOTICE OF DEFAULT	Nov 27, 2015	
7	D MOT TO REOPEN DISCOVERY	Nov 30, 2015	
8	ANSWER	Nov 30, 2015	
9	MOT TO AMEND APPLICATION	Nov 30, 2015	
10	D REQ TO W/DRAW AS ATTORNEY	Dec 29, 2015	
11	D REQ TO W/DRAW AS ATTORNEY	Jan 22, 2016	
12	RESPONSE DUE 30 DAYS (DUE DATE)	Feb 26, 2016	Mar 27, 2016
13	D UNDELIVERABLE MAIL	Mar 21, 2016	
14	RESPONSE DUE 30 DAYS (DUE DATE)	Apr 11, 2016	May 11, 2016
15	BD DECISION: SUSTAINED	May 26, 2016	
16	TERMINATED	May 26, 2016	

Type of Proceeding: Extension of Time

EXHIBIT B

Proceeding Number: [86335393](#)

Filing Date: Feb 11, 2015

Status: Terminated

Status Date: Jul 12, 2015

Interlocutory Attorney:

Defendant

Name: ANFIELD Jason

Correspondent Address: NICHOLAS D WELLS
KIRTON MCCONKIE PC
1800 WORLD TRADE CENTER 60 E SOUTH TEMPL E
SALT LAKE CITY UT , 84111
AUSTRALIA

Correspondent e-mail: jason@bpi.edu.au , worldpro@optusnet.com.au

Associated marks

Mark	Application Status	Serial Number	Registration Number
SURF MUD	Abandoned - After Inter-Partes Decision	86335393	

Potential Opposer(s)

Name: Make-up Designory

Correspondent Address: MICHELLE HON DONOVAN
DUANE MORRIS LLP
750 B STREET, SUITE 2900
SAN DIEGO CA , 92101
UNITED STATES

Correspondent e-mail: mhdonovan@duanemorris.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
Prosecution History			
Entry Number	History Text	Date	Due Date
1	INCOMING - EXT TIME TO OPPOSE FILED	Feb 11, 2015	
2	EXT GRANTED	Feb 25, 2015	
3	INCOMING - EXT TIME TO OPPOSE FILED	May 12, 2015	
4	EXTENSION OF TIME GRANTED	May 12, 2015	

Type of Proceeding: Opposition

Proceeding Number: [91220510](#)

Filing Date: Feb 04, 2015

Status: Pending

Status Date: Feb 04, 2015

Interlocutory Attorney: ELIZABETH A DUNN

Defendant

Name: Jason Coleman and Jason Anfield

Correspondent Address: JASON COLEMAN AND JASON ANFIELD
P O BOX 71, COTTON TREE
QLD 4558 , 4171
AUSTRALIA

Correspondent e-mail: jason@bpi.edu.au , info@surfmud.com

Associated marks

Mark	Application Status	Serial Number	Registration Number
SURF MUD	Abandoned - After Inter-Partes Decision	86335393	

Plaintiff(s)

Name: EIR NYC LLC

Correspondent Address: LUKE W DEMARTE
MICHAEL BEST & FRIEDRICH LLP
180 N STETSON, SUITE 2000

EXHIBIT B

CHICAGO IL , 60601
UNITED STATES

Correspondent e-mail: lwdemarte@michaelbest.com

Associated marks			
Mark	Application Status	Serial Number	Registration Number

SURF MUD Report Completed Suspension Check - Case Still Suspended [86496296](#)

Prosecution History			
Entry Number	History Text	Date	Due Date
1	FILED AND FEE	Feb 04, 2015	
2	NOTICE AND TRIAL DATES SENT; ANSWER DUE:	Feb 05, 2015	Mar 17, 2015
3	PENDING, INSTITUTED	Feb 05, 2015	
4	D APPEARANCE / POWER OF ATTORNEY	Feb 18, 2015	
5	ANSWER	Feb 18, 2015	
6	P REQ FOR DISCOVERY CONFERENCE-PHONE	Apr 03, 2015	
7	P REQ FOR DISCOVERY CONFERENCE-ESTTA	Apr 06, 2015	
8	TRIAL DATES REMAIN AS SET	Apr 10, 2015	
9	STIP TO SUSP PEND SETTL NEGOTIATIONS	Jul 07, 2015	
10	SUSPENDED	Jul 07, 2015	
11	D REQ TO W/DRAW AS ATTORNEY	Dec 28, 2015	
12	TRIAL DATES REMAIN AS SET	Jan 14, 2016	
13	D REQ TO W/DRAW AS ATTORNEY	Jan 22, 2016	
14	RESPONSE DUE 30 DAYS (DUE DATE)	Feb 05, 2016	Mar 06, 2016
15	D RESP TO BD ORDER/INQUIRY	Mar 05, 2016	
16	TRIAL DATES RESET	Mar 17, 2016	
17	D UNDELIVERABLE MAIL	Mar 25, 2016	
18	P MOT FOR SUMMARY JUDGMENT	Apr 29, 2016	
19	Confidential Plaintiff's Supporting Evidents/Exhibits	Apr 29, 2016	

CERTIFICATE OF SERVICE

The undersigned certifies that a true and complete copy of the foregoing MOTION FOR ENTRY OF JUDGMENT AGAINST APPLICANTS has been served upon Applicants by mailing said copy on June 6, 2016, via first class mail, postage prepaid, to:

JASON COLEMAN AND JASON ANFIELD
P.O. BOX 71, COTTON TREE
QLD 4558, 4171
AUSTRALIA

with courtesy copies via e-mail to Applicants at jason@bpi.edu.au and info@surfmud.com.

/Luke W. DeMarte/
Luke W. DeMarte